United Nations CERD/C/AUS/18-20

# International Convention on the Elimination of All Forms of Racial Discrimination

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**Committee on the Elimination of Racial Discrimination**

## Consideration of reports submitted by States parties under article 9 of the Convention

### Eighteenth to twentieth periodic reports of States parties due in 2014

## Australia*

[Date received: 2 February 2016]

* The present document is being issued without formal editing.



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Appendixes**


** Appendixes can be consulted in the files of the secretariat.

# I. Introduction

## Preparation and structure of report

1. The Australian Government is pleased to present Australia's combined 18th, 19th and 20th reports under article 9 of the Convention on the Elimination of All Forms of Racial Discrimination (the convention) to the Committee on the Elimination of all Forms of Racial Discrimination (the committee).

2. The reporting period is 1 July 2008 to 30 June 2014. This report does not duplicate information on those issues addressed in Australia's combined 15th, 16th and 17th report which arose after 30 June 2008. Nor does it duplicate issues that were included in the Australian Government's response of 29 August 2011 in follow-up to the recommendations in paragraphs 11, 16 and 23 of the committee's concluding observations (CERD/C/AUS/CO/15-17/Add.1).[1]

3. Australia last appeared before the committee on 10 and 11 August 2010. The committee issued its concluding observations on Australia's combined 15th, 16th and 17th reports on 27 August 2010 (CERD/C/AUS/CO/15-17) (the concluding observations). On 29 August 2011, Australia submitted a response to the recommendations in three paragraphs of the concluding observations for which the committee had requested a response within 12 months.[2] On 9 March 2012, the committee issued supplementary observations.[3]

4. This report responds to the committee's 2010 concluding observations and recommendations (CERD/C/AUS/CO/15-17) and the 2012 supplementary observations and recommendations on the follow-up response to paragraphs 11, 16 and 23, and those areas where there have been significant new developments and where that information has not already been provided within reports under other treaties to which Australia is a party. Where appropriate, responses are grouped together.

5. This report was prepared in accordance with the guidelines to follow-up on concluding observations and recommendations, the committee's revised guidelines for convention-specific reporting documents, and the harmonised guidelines on reporting under the international human rights treaties. This report supplements Australia's 2007 Common Core Document and should be read in conjunction with this. Part 3 (sub items G and H) of the document includes information on non-discrimination, equality and effective remedies, which is relevant to many issues addressed by this report.

6. Australia draws the committee's attention to its 2010 and 2015 Universal Periodic Review reports submitted to the Human Rights Council and the subsequent report of the Human Rights Council's working group in March 2011[4] which contains information relevant to Australia's implementation of the convention.

7. Australia also cross-references its recently submitted report under the International Covenant on Economic, Social and Cultural Rights (ICESCR) where appropriate.

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[1] CERD/C/AUS/CO/15-17/Add.1 is available at: http://tb.ohchr.org/default.aspx?country=au and is provided at: Appendix 4.

[2] This Australian response document is provided at: Appendix 5.

[3] The Supplementary concluding observations is provided at: Appendix 6.

[4] Report available at: http://daccess-ods.un.org/TMP/8283475.63743591.html.

8. After a federal election on 7 September 2013, a new Australian Government was constituted on 18 September 2013. Key strategies, policies and programs have changed since that date, as have some agency responsibilities and names. These are indicated in this report as appropriate.

## Consultation with state and territory governments and civil society – Reference Concluding Observation 30

9. Australia has a federal constitutional system in which powers are shared between federal institutions and the six states (New South Wales, Victoria, Queensland, Western Australia, South Australia and Tasmania), and three self-governing territories (the Australian Capital Territory, the Northern Territory and the Territory of Norfolk Island). Further information about Australia's political structure is available in part B of the common core document.

10. As Australia is a federation, while the Australian Government is the State Party to the Covenant, state and territory governments share responsibility for implementing Australia's obligations under the convention. The Australian Government consulted state and territory governments in preparing this report. Where possible federal, state and territory responses to relevant concluding observations and recommendations are included in this document. However, given the vast array of state and territory initiatives, Australia has also prepared Appendix 1 to provide a more complete picture of relevant cross-jurisdictional policies and programs over the reporting period.

11. The Australian Government recognises the importance of involving civil society in preparing this report and sought submissions from relevant organisations. A list of submissions received from non-government organisations (NGOs) and individuals that were taken into consideration in preparing this document is at Appendix 2.

## Follow-up and dissemination – Reference Concluding Observation 31

12. This report is publicly available on the Department of Foreign Affairs and Trade's website. Electronic copies have been distributed including to state and territory governments, Australian Government agencies, the Australian Human Rights Commission (AHRC), civil society groups, the private sector and interested members of the public.

13. The following measures constitute Australia's dissemination of the Committee's concluding observations: following the issuance by the committee of its concluding observations on this report and consistent with the committee's concluding observations of 2010 (paragraph 9), the Department of Foreign Affairs and Trade will meet with Australian government agencies and state and territory governments to discuss the committee's concerns and recommendations. The views of the AHRC, state and territory statutory office holders, civil society groups, members of the public and other stakeholders will also be sought.

14. In addition to publishing the concluding observations on its website, the department will ask external stakeholders to make the observations available to their members.

15. Consistent with the committee's 2006 reporting guidelines, Australia's Mission to the United Nations in Geneva will remain the nominated point for liaison with the committee's follow-up coordinator.[5]

[5] The Mission's contact details are: Chemin des Fins 2, Case Postale 102, 1211 Geneva 19. Phone:

16. The Australian Government is committed to effective operation of the UN human rights treaty system and looks forward to the committee's consideration of this report.

## Australia's racial diversity

17. Australia has one of the most culturally and linguistically diverse and socially cohesive populations in the world. As well as our original inhabitants, Aboriginal and Torres Strait Islander people, Australia is made up of people from about 200 countries.

18. The 2011 Australian Census of Population and Housing, conducted every five years, revealed that 26% of Australia's population was born overseas and a further 20% had at least one overseas-born parent.[6] Out of the OECD nations, only Luxembourg (42%), Israel (31%) and Switzerland (28%) have larger proportionate migrant populations.[7] Migration made up to 60% of Australia's total population growth in 2013.[8]

19. The 2011 Census recorded an Aboriginal and Torres Strait Islander population of 548,370, with 20.5% more Australians identified as Aboriginal and Torres Strait Islander than in the 2006 Census. By August 2013, the Aboriginal and Torres Strait Islander population had reached 669,900, or 3% of the total population.[9] About 60% of the population lives in major cities and inner regional areas, and just over 20% lives in remote and very remote areas.[10]

20. The 2011 Census identified over 300 ancestries and more than 300 languages spoken in Australia.[11] While the Census only takes account of 48 of the more common Indigenous languages and two creoles, there are about another 100 known Indigenous languages spoken by small groups of people.[12] In 2011, about one in ten Aboriginal and Torres Strait Islander people (11%) reported speaking an Australian Indigenous language at home and 17% of Australians spoke a language other than English.[13]

21. For the 2011 Census, the most common languages spoken in Australia, other than English, were Mandarin, Italian, Arabic, Cantonese and Greek.[14] Chinese languages

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022 799 9100, fax: 022 799 9178.

[6] Data sourced from the Australian Bureau of Statistics (ABS), *Reflecting a Nation: Stories from the 2011 Census, 2012-13*, (Cat. No. 2071.0), available at: http://www.abs.gov.au/ausstats/abs@.nsf/mf/2071.0.

[7] Data sourced from ABS, *Australian Social Trends, 2014*, (Cat. No. 4102.0), available at: http://www.abs.gov.au/socialtrends.

[8] Data sourced from ABS, *Media Release – Can you imagine Australia's future population?*, August 2014, available at: http://www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/4102.0Media%20Release92014?opendocument&tabname=Summary&prodno=4102.0&issue=2014&num=&view=.

[9] Data sourced from ABS, *Media Release – Aboriginal and Torres Strait Islander population nearing 700,000, August 2013*, available at: www.abs.gov.au/ausstats/abs@.nsf/latestProducts/3238.0.55.001Media%20Release1June%202011.

[10] Ibid.

[11] Data sourced from ABS, *Media Release – 2011 Census shows Asian languages on the rise in Australian households, June 2012*, available at: http://www.abs.gov.au/websitedbs/censushome.nsf/home/CO-60.

[12] Data sourced from ABS, *Australian Social Trends 1999, June 1999* (Cat. No. 4102.0) available at: http://www.abs.gov.au/AUSSTATS/abs@.nsf/2f762f95845417aeca25706c00834efa/d67b7c95e0e8a733ca2570ec001117a2!OpenDocument.

[13] Data sourced from ABS, *Census of Population and Housing: Characteristics of Aboriginal and Torres Strait Islander Australians, 2011*, (Cat. No. 2076.0), available at: http://www.abs.gov.au/ausstats/abs@.nsf/lookup/2076.0main+features902011.

[14] Data sourced from ABS, *Media Release – 2011 Census shows Asian languages on the rise in*

(including Cantonese and Mandarin amongst others) are spoken by about 3% of the population and have the greatest number of speakers after English.[15]

# II. Responses to the Concluding Observations (CERD/C/AUS/CO/15-17) of the Committee on the Elimination of Racial Discrimination

22. The principal way Australia implements the Convention on the Elimination of All Forms of Racial Discrimination is through the Racial Discrimination Act 1975 (Cth) and the work of the Australian Human Rights Commission (AHRC). Australia's states and territories also have a variety of anti-discrimination and human rights legislation. Further detail on the federal, state and territory political and legal anti-discrimination framework is available in Part D of Australia's Common Core document.

23. The following provides responses to concerns and recommendations raised by the committee in its concluding observations (CERD/C/AUS/CO/15-17) and supplementary concluding observations.[16]

## Concluding Observations 9, 10, and 25 – Establishment of a domestic implementation mechanism for the convention across the federal system and review of anti-discrimination laws, including burden of proof requirements for demonstrating discrimination

24. The Australian Government believes everyone is free to speak their mind, rights are accompanied by responsibilities, there is no place for racism, and all people should live in a harmonious and mutually respectful society.

25. Obligations in CERD can be implemented by States through a range of means, including legislation. Successive Australian governments have generally approached implementation by ensuring that domestic legislation, policy and practice are consistent with Australia's international human rights obligations.

26. Under Commonwealth law, the prohibited grounds for discrimination are set out in the Racial Discrimination Act 1975 (Cth), the Sex Discrimination Act 1984 (Cth), the Disability Discrimination Act 1992 (Cth) and the Age Discrimination Act 2004 (Cth).The Racial Discrimination Act 1975 makes it unlawful to discriminate on the basis of race, colour, or national or ethnic origin in any field of public life and prohibits racial vilification. The Act provides for civil remedies.

27. The Human Rights (Parliamentary Scrutiny) Act 2011 (Cth) commenced on 4 January 2012. It requires that all legislation introduced into the Australian Parliament be accompanied by a statement setting out its consistency with Australia's obligations under the seven core United Nations human rights treaties to which Australia is a party, including CERD.

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*Australian households, June 2012*, available at: http://www.abs.gov.au/websitedbs/censushome.nsf/home/CO-60.

[15] Racism! No way, *Languages other than English* at: www.racismnoway.com.au/about-racism/population/index-Diversit-2.html.

[16] The Supplementary concluding observations is provided at: Appendix 6.

28. The Act also requires the establishment of a Parliamentary Joint Committee on Human Rights (PJCHR) in the Australian Parliament. This occurred in March 2012. The PJCHR considers the compatibility of new and existing Commonwealth legislation with human rights, including the rights in the CERD. It may undertake inquiries on matters relating to human rights referred to it by the Attorney-General. The PJCHR also plays an educative role, which includes raising public awareness of human rights. Since its establishment, the PJCHR has tabled numerous reports examining the compatibility of legislation introduced into the Parliament, including for consistency with the CERD.

29. The former Government reviewed and considered undertaking reform of Commonwealth anti-discrimination legislation. However, a proposal to consolidate Commonwealth anti-discrimination laws was not progressed. It does not form part of the current Australian Government's policy.

30. Australian, state and territory governments have also enacted legislation that provides additional protections from discrimination.

**Victoria**

31. In Victoria, the Equal Opportunity Act 2010 prohibits discrimination on the basis of a person's individual attributes (including race), and in certain areas of public life such as employment, education and the provision of goods and services. The Act prohibits both direct and indirect discrimination. It provides for a "shift" in the evidentiary burden in relation to complaints of indirect discrimination. Under the Act, indirect discrimination occurs if a person imposes or proposes to impose a requirement, condition or practice that has, or is likely to have, the effect of disadvantaging people with an attribute, and the requirement, condition or practice is not reasonable. While a complainant needs to show that the requirement causes, or is likely to cause, them disadvantage, the person who imposes the requirement must show that it is reasonable. A respondent seeking to rely on an exception to discrimination, whether direct or indirect, must prove that the exception applies.

32. For more examples of state and territory policy and implementation under Concluding Observations 9, 10 and 25, see Appendix 1.

33. The Australian Government has no plans to review the burden of proof requirements in Commonwealth anti-discrimination laws at this time.

## Concluding Observation 11 and Supplementary Observation – Support for the Australian Human Rights Commission (AHRC) and appointment of a full-time Race Discrimination Commissioner, roles and responsibilities

34. Australia has a full-time Race Discrimination Commissioner within the AHRC, Dr Tim Southpommasane, who was appointed in August 2013. The AHRC enquires into and conciliates complaints of unlawful racial discrimination or racial hatred. If conciliation is unsuccessful the complainant may lodge an application with the Federal Court of Australia or the Federal Circuit Court of Australia for remedies ranging from an apology to compensation.

35. The commission had a total budget of $35,222,000 in 2013-14 for ordinary annual services, an increase on its 2011-12 budget of $27,110,000.

## Concluding Observation 12 – Biometric data and sensitisation campaigns against stereotyping

36. In December 2010, the Australian Government introduced biometric collection into overseas visa processing arrangements. Facial images and fingerprint scans are kept on secure databases. Only authorised officers under the Migration Act 1958 (Cth), as regulated by the Privacy Act 1988 (Cth), may access the biometrics of applicants.

37. The pilot stage of the Offshore Biometrics Program included visa applications processed at locations managed by 10 Australian missions in Africa, Asia, Europe and the Middle East. Biometrics are now collected from applicants in Bahrain, Bangladesh, Cambodia, Colombia, Ethiopia, France, Ghana, Jordan, Kenya, Kuwait, Lebanon, Malaysia, Nigeria, Oman, Pakistan, Qatar, Saudi Arabia, Sri Lanka, United Arab Emirates, Yemen and Zimbabwe. Mobile biometric collection units are used in Ankara, Bangkok, Islamabad, Jakarta, Kuala Lumpur, Nairobi, New Delhi, Pretoria and Tehran.

38. The choice of locations takes into account factors including Australia's national security, fraud risks in visa caseloads, application volumes, and availability of biometrics collection infrastructure. All people, regardless of nationality, who lodge paper-based visa applications and some electronic applications in countries where biometrics are collected, need to provide their fingerprints and a digital photograph as part of the visa application process. Those under 15 only need to provide a photograph.

39. In May 2014, the Australian Government announced that biometric collection would be expanded to cover approximately 20 further countries by 2018.

40. A number of state and territory governments also work with community organisations to address racial and cultural stereotyping.

### New South Wales

41. Multicultural NSW consults extensively with communities affected by overseas conflicts and terrorism to offer support and promote community harmony. The agency is a member of the NSW State Counter Terrorism Committee, NSW Countering Violent Extremism Advisory Group, and the Countering Violent Extremism Sub-Committee of the Australia New Zealand Counter Terrorism Committee.

42. Since 2010 the Community Relations Commission has secured funding under the National Framework to Counter Violent Extremism to implement a wide range of local and online community engagement initiatives that empower communities, promote intercultural engagement, and counter the negative impacts of violent extremism on social cohesion and community harmony.

43. Responding to concerns about the potential backlash against the broader Muslim community following major counter-terrorism operations in Australia in 2014, Multicultural NSW, in partnership with the NSW Police Force, established the Speak Out Hotline for reporting incidents of harassment and abuse based on race or religion.

44. For more state and territory examples under Concluding Observation 12, see Appendix 1.

## Concluding Observation 13 – Regulation of Australian corporations

45. Australia expects Australian companies operating overseas to abide by local laws and standards as well as Australian laws that apply extraterritorially to their overseas activities. This includes Australian laws on bribery of foreign officials and Australian

autonomous sanctions. Australian companies are also expected to conduct themselves in accordance with internationally recognised standards for corporate social responsibility and human rights, including on racial discrimination, and to comply with United Nations Security Council sanctions.

46. The Australian Government has endorsed OECD Guidelines for Multinational Enterprises. Though not legally binding, companies operating in Australia and Australian companies operating overseas are expected to act in accordance with the principles set out in the guidelines and to perform at a minimum the standards they suggest. Australia has established a National Contact Point in the Department of the Treasury that can consider complaints brought under the Guidelines. The contact point also provides a forum for discussion with stakeholders on matters relating to the guidelines.[17]

47. Australia supports voluntary frameworks to guide human rights protections by corporations, including the UN Guiding Principles on Business and Human Rights.

48. Australia supports the UN Global Compact, which at July 2015 had 120 Australian participants ranging from small and medium sized enterprises to large corporations such as BHP Billiton, KPMG Australia and the ANZ Banking Group, as well as academic institutions, business associations, foundations and non-government organisations. Launched in 2009, the UN Global Compact Network Australia offers practical assistance to Australian UN Global Compact signatories to integrate and operationalise the UN Global Compact.

49. The Leading Practice Sustainable Development Program for the Mining Industry[18] initiative, launched in 2006, is a collaborative effort between government and industry that promotes sustainable development and industry self-regulation through proactive adoption of leading practice principles. The program has developed an internationally successful series of handbooks, which cover leading practice in mining management, including on Community Engagement and Development and Working with Indigenous Communities.[19]

50. The Australian Government is working with the resources sector, Aboriginal and Torres Strait Islander communities and others to build effective long-term relationships and encourage wider adoption of best practice. Through the Working in Partnership initiative, the Australian Government is enhancing enterprise development and increasing employment opportunities for communities in mining areas.

**Facilitating a national dialogue on business and human rights**

51. On 30 July 2014, the AHRC and Global Compact Network Australia met with about 100 representatives from some of Australia's biggest companies, non-government organisations, government departments, investors and academia to discuss how corporate strategies can be shaped with human rights objectives. The United Nations Working Group on Business and Human Rights also attended and supported the event.

52. The dialogue heard from 27 experts across seven topics, including corporate responsibility to respect human rights, the role of government, access to remedy and grievance mechanisms, bringing a human rights lens to Indigenous engagement, and human rights in the supply chain. The event concluded with a commitment from all stakeholders to continue the conversation and to strive to ensure Australian companies are seen as

[17] Further information available at: www.ancp.gov.au.
[18] Available at: http://www.industry.gov.au/resource/Programs/LPSD/Pages/default.aspx.
[19] Handbooks available at: www.industry.gov.au/resource/Programs/LPSD/Pages/default.aspx.

international leaders on business and human rights issues. A further national dialogue is planned for 2015.[20]

**Western Australia**

53. Western Australia protects sites or objects of significance to Aboriginal people through its Aboriginal Heritage Act 1972 (WA). The Act requires land users and developers (including corporations and others) to have the consent of the Minister for Aboriginal Affairs before impacting sites of significance as defined by the Act. The government recently invited public comment on its intention to amend the Act to provide even greater protection to significant Aboriginal heritage through a number of measures, including increasing the penalty to $1 million for corporations unlawfully impacting Aboriginal sites. Proposed changes were introduced as a Bill to Parliament in November 2014.

**Indigenous Management Support Service**

54. The Department of Agriculture and Food WA commenced its Indigenous Management Support Service in 2002 in partnership with the Indigenous Land Corporation and six Kimberley pastoral properties managed by Indigenous communities. It is a holistic support service focusing on production management, marketing, business management and capacity building. Key learnings include identifying what is needed to build a commercial pastoral enterprise managed solely by Indigenous directors, and providing sustainable pastoral careers for community members.

55. For more state and territory examples under Concluding Observation 13, see Appendix 1.

## Concluding Observation 14 – Access to services, multicultural policy and social inclusion

56. The committee is referred to the Australian Government's fifth periodic report under the ICESCR, specifically Concluding Observation 24 (Poverty).

**Access to services**

57. The Australian Government is committed to the core principle that programs and services should be accessible by all eligible Australians, responsive to their needs and deliver equitable outcomes regardless of cultural and linguistic backgrounds.

58. The Commonwealth's policy Multicultural access and equity policy: respecting diversity. Improving responsiveness[21] covers all engagement of Commonwealth Government departments and agencies with multicultural communities, not just direct service delivery. Commonwealth departments and agencies are required to develop Agency Multicultural Plans and publish these on their websites. The first plans run from 1 July 2013 to 30 December 2015.

59. The Australian Government has reached agreements with the Queensland, Western Australian, Victorian, Tasmanian and South Australian governments that will see the states

[20] Australian Human Rights Commission: https://www.humanrights.gov.au/education/business-and-human-rights.

[21] Further information: https://www.dss.gov.au/our-responsibilities/settlement-and-multicultural-affairs/programs-policy/access-and-equity/multicultural-access-and-equity-policy-toolkit.

take on responsibility for delivering municipal and essential services in remote Indigenous communities. The Australian Government has also allocated $154.8 million in the 2015-16 Budget for the Northern Territory to assume full ongoing responsibility for the provision of municipal and essential services in Indigenous communities under the new National Partnership Agreement on Northern Territory Remote Aboriginal Investment. When agreed, these arrangements replace previous arrangements under the Stronger Futures in the Northern Territory National Partnership Agreement.

60. Between 2008 and 2014 Australia resettled 82,318 humanitarian entrants. The Australian Government assists humanitarian entrants through the Australian Cultural Orientation (AUSCO), Humanitarian Settlement Services (HSS) and Complex Case Support (CCS) programmes, and a range of activities funded through settlement grants. These programmes provide the basis for longer-term engagement with education, English language and employment service providers. AUSCO is an orientation programme delivered overseas by the International Organization for Migration for refugee and humanitarian visa holders preparing to be resettled in Australia. HSS provides early practical support to humanitarian clients generally for their first six to twelve months after their arrival. CCS helps eligible clients resolve more complex issues beyond the scope of HSS for up to five years. HSS and CSS programmes are delivered by contracted service providers in metropolitan and regional locations and take a needs-based, case management approach. Humanitarian entrants are also eligible for Free Interpreting Services and Free Translation Services to support them to access other mainstream services. Settlement grants fund services that foster social participation, economic and personal well-being, independence and community connectedness and are available to humanitarian entrants during their first five years of life in Australia.

61. The Australian settlement policy ensures humanitarian entrants are initially settled close to any existing links (family or friends) in Australia and have access to settlement service providers with expertise in meeting their specific needs and facilitating access to other support services.

62. People residing in Australia on Temporary Protection visas (TPV) and the Safe Haven Enterprise visa (SHEV) introduced in 2015 are not permanent residents and so they are not eligible for HSS or support funded with settlement service grants. However, under current arrangements, TPV and SHEV holders have permission to work; access to Medicare and related benefits; access to Early Health Assessment and Intervention Services (including counselling for torture and trauma); and access to education for children of school age. They are also eligible for some support through CCS, interpretation and translation services, social security payments, and employment services including disability employment services.

63. Australia's National Settlement Framework aims to bring together all three levels of government to improve settlement services through better coordination and collaboration and more effective use of existing resources.

**Accessing services**

64. The Department of Human Services provides social and health related services through Centre link and Medicare, as well as information in a range of languages, and interpreter and translation services. Specialist multicultural service officers also help migrant and refugee communities connect with Australian Government programs and services.

65. There are around 70 of these officers operating across Australia, from metropolitan to regional and rural service centres.[22]

66. To help Indigenous Australians better access Medicare services, the department also maintains a network of Medicare liaison officers in each state and the Northern Territory, with a diverse range of culturally appropriate skills and expertise. It also runs the Aboriginal and Torres Strait Islander Access Line.[23]

**South Australia**

67. In December 2013 the Universal Access and Inclusion Guidelines[24] were endorsed to allow government agencies to assess whether their services are accessible and their practices inclusive. The document focuses on three key areas: inclusive leadership and governance; inclusive policies, programs and services; and inclusive workforce. The draft Access and equity guidelines for a multicultural South Australia will complement the guidelines.

68. For more state and territory examples under Concluding Observation 14, see Appendix 1.

**Multicultural policies**

69. The Australian Government is committed to building a prosperous and harmonious multicultural Australia. It recognises the significant contribution that migrants have made to our country.

70. The Government's approach to multiculturalism acknowledges the important contribution of everyone learning English, having a secure job, and gaining a quality education. At its core, Australia's approach is a balance of rights and responsibilities which are cornerstones of Australian democracy. The Government sees these pillars as critical to fostering participation, supporting productive diversity, and maintaining Australia's high levels of community harmony.

71. A range of policies and programs support Australia's approach to multiculturalism:

- The National Anti-Racism Strategy defines racism how it can be prevented and reduced.[25]
- Through its Multicultural Community Liaison Officer network, the government engages with community leaders and stakeholders to monitor the views of multicultural communities.
- Diversity and social cohesion grants are provided to select community organisations to raise awareness, promote understanding, respect and fairness, and to develop a sense of belonging for all Australians.[26]
- The Australian Multicultural Council was appointed on 15 December 2014 to advise on issues of multicultural policy and programs over a three-year period.[27]

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[22] Further information: www.humanservices.gov.au/customer/services/centrelink/multicultural-service-officers.

[23] Further information: www.humanservices.gov.au/customer/services/medicare/indigenous-access-program.

[24] http://www.dcsi.sa.gov.au/about-us/key-strategies-and-plans.

[25] Further information: http://www.humanrights.gov.au/national-anti-racism-strategy-and-racism-it-stops-me-campaign.

[26] Further information: https://www.dss.gov.au/grants/diversity-and-social-cohesion-dsc.

**Australian Capital Territory**

72. The ACT Government is committed to maximising the benefits of cultural diversity. Its Multicultural Strategy 2010-2013 has been a blueprint for the territory's multicultural focus and its Respect, Equity and Diversity Framework promotes a positive work culture across government. The Community Services Directorate recently released a new multicultural policy discussion paper, which sets out a number of principles that are now ingrained in ACT Government policy. These include human rights; access and equity; ageing and aged care issues; cultural and religious acceptance; language policy; and leadership and governance.

73. For more state and territory examples under Concluding Observation 14, see Appendix 1.

**Social Inclusion Agenda**

74. Australia's Social Inclusion Agenda was the overarching policy agenda between 2009 and 2013 and was designed to build a stronger, fairer Australia where everyone, regardless of their cultural background, language or religion, has the same opportunity to participate, including new arrivals and refugees. In 2012, a second edition of How Australia is Fairing and which provides a benchmark to measure future progress and included indicators measuring, among other things, attitudes to cultural diversity and the prevalence of discrimination.[28]

75. Australia's multicultural policy, The People of Australia,[29] was launched in 2011 to strengthen social cohesion by promoting belonging, respecting diversity and fostering engagement with Australian values, identity and citizenship within the framework of Australian law. The policy was made available in English, Arabic, Chinese, Dinka, French, German, Greek, Hindi, Italian, Spanish and Vietnamese.

76. The government has an ongoing research partnership with Monash University to undertake research into social cohesion in Australian communities. The National Mapping Social Cohesion Survey is an online survey that looks at patterns of engagement with Australian society and levels of identification, satisfaction and trust. This has been an annual survey since 2009. An additional, locations based survey, which built on previous research undertaken by Monash University, looks at the Australian community's attitudes towards social cohesion and to assess changes in these attitudes over time. The results from these surveys are used by government to inform future directions in social cohesion policy work.[30]

## Concluding Observations 15 and 26 – Indigenous recognition and reconciliation

77. All Australian governments are committed to meaningful reconciliation with Australia's Indigenous peoples. The Australian Government is working towards the recognition of Indigenous Australians in the Commonwealth Constitution. The Australian Government continues to engage with stakeholders, including holding a landmark meeting

[27] Further information available at: http://www.amc.gov.au/.

[28] *How Australia is Fairing* available at: http://www.socialinclusion.gov.au/resources/how-australia-is-faring.

[29] https://www.dss.gov.au/our-responsibilities/settlement-and-multicultural-affairs/publications/the-people-of-australia-australias-multicultural-policy.

[30] Further information available at: http://monash.edu/mapping-population/social-cohesion-report.html.

between Indigenous and political leaders on the path towards Indigenous constitutional recognition.

78. The Australian Constitution can only be changed by referendum. To be successful, a referendum must have the support of a majority of Australians nationally and in a majority of states. This generally requires strong bipartisan support, broad public awareness and a clear and easily understood proposal. Only eight out of the past 44 referendum proposals have passed.

79. On the fifth anniversary of the National Apology to Australia's Indigenous Peoples (13 February 2013) the Federal House of Representatives unanimously passed the Aboriginal and Torres Strait Islander Peoples Recognition Bill 2013 which also passed unopposed in the Senate in March 2013. This entered into effect on 28 March 2013.

80. The Aboriginal and Torres Strait Islander Peoples Recognition Act 2013 is a significant step towards a referendum. The Act recognises the "unique and special place of Aboriginal and Torres Strait Islander peoples". On 19 March 2015, the Act was extended by three years until 28 March 2018. This ensures that parliamentary support for recognition of Australia's First Peoples in the Constitution continues in the lead up to a referendum.[31]

81. The Act requires the Minister for Indigenous Affairs to appoint a review panel to assess Australia's readiness for a referendum to recognise Indigenous Australians in the Constitution, and preconditions for a successful referendum. The review panel was appointed on 27 March 2014 and its final report was tabled in Parliament on 19 September 2014. The report found that the majority of Australians support Indigenous constitutional recognition. The report recommends a number of steps to prepare for a referendum on constitutional recognition of Indigenous Australians and is currently under consideration by government.

82. Recognising the need for commitment across parliament, the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples was re-established in December 2013 to inquire into steps that can be taken to progress towards a successful referendum and to build multi-partisan parliamentary consensus on the content and wording of referendum proposals. From 2014 to 2015 the committee undertook public consultations around Australia and received 139 written submissions. The committee's Final Report, tabled on 25 June 2015, makes a number of recommendations and puts forward a range of options for constitutional change. The Australian Government will carefully consider the Final Report.

**South Australia**

83. The South Australian Government amended the state's Constitution to recognise Aboriginal peoples as traditional owners and occupants of land and waters of the state, and committed all state government agencies to develop Reconciliation Action Plans.

84. To ensure Aboriginal people can exercise meaningful control over their affairs, the government has also:

- Established the South Australian Aboriginal Advisory Council to provide high level advice to government
- Established the Office for the Commissioner for Aboriginal Engagement to serve as an independent voice for the Aboriginal community in government

[31] Further information available at: http://monash.edu/mapping-population/social-cohesion-report.html.

- Committed to developing the Aboriginal Regional Authorities policy to harness the strengths of the Aboriginal community to most effectively represent that community in decision making (the Aboriginal Regional Authority policy is to be implemented in 2015)
- Committed to support the state's three Aboriginal landholding authorities which collectively hold more than 20% of South Australian land for the benefit of Aboriginal people and
- Committed to drafting legislation to recognise the self-determining governance structures of Aboriginal nations, and the unique cultural authority of those nations. This legislation will set out guiding principles for cooperation, and allow agreements to be negotiated between government and Aboriginal groups.

85. For more state and territory examples under Concluding Observations 15 and 26, see Appendix 1.

86. Complementing these actions is the RECOGNISE movement which is supported by the Australian Government to help build community awareness and support for Constitutional recognition.[32]

**National Congress of Australia's First Peoples**

87. From 2009-10 to 2016-17, the National Congress of Australia's First Peoples will receive $29.3 million in funding to support its establishment and operations.

88. In April 2010, the national congress was incorporated as a company limited by guarantee. It is owned and controlled by its membership and is independent of government. The national congress has held annual general meetings each year since June 2011. At the end of 2014, it had 8,206 individual and 181 corporate members.

89. On the recommendation of the Commission of Audit, the Australian Government did not proceed with additional funding to the National Congress of Australia's First Peoples, announced in the previous Government's last Budget (2013-14). The Government will continue with its approach of consulting with Aboriginal and Torres Strait Islander peoples through a range of mechanisms.

**The Stolen Generations**

90. The Australian Government has committed to support healing and help Stolen Generations trace, locate, and reunite with their families. At the time of the National Apology, the government made it clear that compensation would not be paid.

91. The Australian Government funds the Aboriginal and Torres Strait Islander Healing Foundation to help heal the grief, loss and intergenerational trauma experienced by Indigenous people due to past government policies.

92. In April 2012, the Stolen Generations Reference Committee was established to guide the foundation's work. Projects funded by the foundation contribute to suicide prevention and improved mental health of individuals and communities through the provision of: healing services; community education about trauma, managing grief and loss effectively; and building a professional workforce that can better respond to loss, grief and trauma in Indigenous communities.

[32] Further information on RECOGNISE available at: http://www.recognise.org.au/.

93. From 2011 to 2014 $54.4 million was provided to support Stolen Generations through:

- Link Up Services to deliver family tracing, reunion and counselling services to members of the Stolen Generations; and training and support for Link Up staff through the Family History Unit located in the Australian Institute of Aboriginal and Torres Strait Islander Studies.
- A network of social and emotional wellbeing counselling staff located in Aboriginal community-controlled health services across Australia.

94. The Australian Government has also funded the collection and preservation of some records of those removed from their families, and provided $100,000 to the National Library of Australia to make oral history recordings more accessible to the public. The Government also funded the development of a publically accessible website where 50 members of the Stolen Generations tell their stories or testimonies.[33]

## Concluding Observation 16 and Supplementary Observations – Northern Territory Emergency Response and income management

95. The following information is provided to the committee in addition to CERD/C/AUS/CO/15-17/Add.1.[34] The committee is also referred to the Australian Government's fifth periodic report under the ICESCR; specifically Concluding Observation 15 (Northern Territory Intervention Response).

96. The Northern Territory National Emergency Response (NTER) Act 2007 ceased to have effect and was repealed when the Stronger Futures in the Northern Territory 2012 (Stronger Futures) legislation commenced. The three Acts in the Stronger Futures package are:

- Social Security Legislation Amendment Act 2012
- Stronger Futures in the Northern Territory Act 2012 and
- Stronger Futures in the Northern Territory (Consequential and Transitional Provisions) Act 2012

97. The Act effectively redesigned NTER measures as either special or non-discriminatory measures under the Racial Discrimination Act 1975 (Cth). All elements under the Stronger Futures package are consistent with this Act.

98. Stronger Futures was developed following extensive consultations with Aboriginal communities about what was important to them. Stronger Futures invests in programs and services critical to closing the gap in Indigenous disadvantage and making communities safer in areas such as health, education, housing and policing.[35]

99. The Stronger Futures in the Northern Territory Six-Monthly Progress Report, which covers the period 1 January to 30 June 2013 was released in May 2014 and showed that despite the investment, there has only been limited improvement.[36] In the 2014-15 Budget,

[33] www.stolengenerationstestimonies.com.

[34] CERD/C/AUS/CO/15-17/Add.1 is available at: http://tb.ohchr.org/default.aspx?country=au and is provided at: Appendix 4.

[35] Further information: http://www.dss.gov.au/our-responsibilities/indigenous-australians/programs-services/stronger-futures-in-the-northern-territory/stronger-futures-in-the-northern-territory-six-monthly-progress-report.

[36] http://www.dpmc.gov.au/PUBLICATIONS/stronger_futures_NT_progress/index.cfm.

it was announced that Stronger Futures would be revised in collaboration with the Northern Territory.

100. In the 2015-16 Budget, it was announced that the National Partnership Agreement (NPA) on Stronger Futures would be replaced with a new NPA on Northern Territory Remote Aboriginal Investment. The new NPA retains the overarching direction of the outcomes of the Stronger Futures NPA and will continue to be supported by the existing Stronger Futures legislation

**Income management**

101. Income management is a tool, applied in a non-discriminatory way, which helps people better budget their welfare payments and ensures they are getting the basic essentials of life, such as food, housing, electricity and education.[37] Managed by the Department of Social Services, it is implemented in a number of areas around Australia including:

- New South Wales (Bankstown)
- The whole of the Northern Territory
- Queensland (Logan, Rockhampton, Livingstone, Cape York)
- South Australia (Anangu Pitjantjatjara Yankunytjatjara (APY) Lands, Ceduna region, Playford)
- Victoria (Greater Shepparton)
- Western Australia (Perth Metropolitan, Peel, the Kimberley Ngaanyatjarra Lands, Laverton Shire, Kiwirrkirra Community)

102. Several recent evaluations highlight the benefits of income management:[38]

- Recent evaluations reported that income management helped stabilise the expenditure patterns of people in severe financial difficulties including a significant decrease in alcohol and tobacco consumption, improvements to child wellbeing and reduction in the proportion of people running out of money before payday, making them feel safer and improving their lives and the lives of their children. In particular, voluntary, child protection referred and social worker assessed forms of income management seem to produce the most positive results, particularly in relation to improving customers' sense of financial control and for some, providing a degree of harm minimisation and stabilisation of crisis situations.
- There have been multiple indications that Voluntary Income Management has had a positive impact on helping to reduce expenditure on tobacco and alcohol among program participants. For example, findings from the interim Place-Based Income Management Evaluation showed that people participating in Voluntary Income Management consumed on average 26.6 fewer drinks per month at wave one compared with baseline.
- The New Income Management evaluation found that approximately 70% of Indigenous people "agreed" or "strongly agreed" that income management "made things better for me".

[37] Further information: https://www.dss.gov.au/our-responsibilities/families-and-children/programs-services/income-management.

[38] All income management evaluations available at: https://www.dss.gov.au/our-responsibilities/families-and-children/programmes/services/income-management/income-management-evaluations.

- An evaluation of Voluntary Income Management in the Anangu Pitjantjatjara Yankunytjatjara Lands has shown that for vulnerable groups, particularly women, income management has been reported by some respondents to result in less financial harassment from relatives and more control over their own money.
- A review of Child Protection Income Management indicated that income management has, in some cases, allowed participants to leave abusive relationships by helping them to stabilise their finances. This meant they had the means to leave and the ability to secure other housing. The review also showed that there was a perceived reduction in the amount of alcohol-related violence in the Kimberley region where income management was operating.

103. On 26 August 2014, the Parliamentary Joint Committee on Human Rights released its 10th report, which included an examination of the compatibility with human rights obligations of the Ceduna and surrounding region determination.[39] The committee's view is that the income management measures in Ceduna and surrounding region have the potential to limit a range of human rights, such as the rights of equity and non-discrimination and the right to social security. The Department of Social Services has responded to the report demonstrating that income management pursues a legitimate objective, and is reasonable and proportionate.

## Concluding Observation 17 – Article 4(a) reservation, absence of Northern Territory legislation prohibiting incitement to racial hatred; information on complaints, prosecutions and sentences regarding acts of racial hatred or incitement in states and territories with legislation specifying such offence

104. Australia has a strong tradition of freedom of expression and considers that its current laws in relation to racial hatred and vilification are appropriate. Accordingly, Australia will not be introducing legislation to give any further effect to article 4(a) nor does Australia have any intention to withdraw its reservation to this article.

105. At the federal level, the Racial Discrimination Act 1975 (Cth) contains a civil prohibition on racial hatred. The AHRC has the power to conciliate complaints of racial hatred under this Act. If the conciliation is unsuccessful, legal proceedings can be commenced by the complainant in the Federal Court of Australia or the Federal Circuit Court. The Commission does not publish disaggregated data on a complainant's gender or religion in relation to complaints of racial discrimination.

106. The AHRC's annual report details complaints it receives. In 2013-14, the Commission received 2,223 complaints of which 380 (17%) were lodged under the Racial Discrimination Act. The Commission successfully conciliated 71% of complaints received under the Act.[40]

107. Under the Commonwealth Criminal Code Act 1995, it is an offence to urge violence against a group that is distinguished by race, religion, nationality, national or ethnic origin or political opinion. In 2010 Australia passed federal legislation criminalising the urging of

[39] www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/Completed_inquiries/2014/1044.

[40] Australian Human Rights Commission, *Annual Report 2013-2014*, available at http://www.humanrights.gov.au/sites/default/files/document/publication/ahrc_annual_report_2013-14v2.pdf.

the use of force or violence towards a group (or member of a group) on grounds of race, religion, nationality, national or ethnic origin or political opinion.[41]

108. Under the Australian and New Zealand Offence Codes structure there are no specific offence codes for hate crime other than 1333 Racial Vilification.

109. All states and territories, with the exception of the Northern Territory, have enacted legislation that specifically creates criminal or civil prohibitions against racial hatred.

110. In most jurisdictions, there is no requirement for victims of crime to provide information on their nationality/race/ethnicity or occupation. Some jurisdictions may include these factors in crime recording systems, however these fields are not mandatory.

**Queensland**

111. Since 2001, the Anti-Discrimination Act 1991 (Qld) has included an offence of serious racial vilification. Section 131A provides that a person must not, by a public act, knowingly or recklessly incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the basis of race or religion, in a way that includes threatening physical harm, or inciting others to threaten physical harm towards the person or their property. The offence carries a maximum penalty of a fine of $7,969.50 or six months imprisonment (individual) or $39,847.50 (corporation). There have been no prosecutions in Queensland for serious racial vilification.

112. For more state and territory examples under Concluding Observation 17, see Appendix 1.

## Concluding Observation 18 – Legislative reforms to the Native Title Act 1993 (Cth), burden of proof and mechanisms for effective consultations with indigenous peoples

113. The committee is referred to the Australian Government's fifth periodic report under the ICESCR, specifically Concluding Observation 32 (Native title reform).

114. National Native Title Tribunal figures show that, at 30 September 2014, 26.1% of land in Australia is subject to a determination that native title exists. This is in addition to land held by Indigenous people under Commonwealth, state and territory land rights legislation. Work continues on improving the claims resolution processes.

115. The native title system has evolved since it was established in 1993, with significant increases to the numbers of native title determinations made each year following reforms to the Federal Court and the National Native Title Tribunal in both 2012 and 2009. For instance, in 2013-14 the Federal Court handed down 65 native title determinations, the highest number in any financial year to date and an improvement on the 33 determinations made in 2012-13, 36 made in 2011-12 and 29 in 2010-11. By contrast the Federal Court made 10 determinations in 2009-10, and averaged less than 10 determinations a year during the time from its first determination in 1996-97 and the beginning of the 2009 reforms. The majority of Federal Court determinations have been either unopposed or through consent between parties.

116. As a result of these increases in the number of determinations made each year, the National Native Title Tribunal had 410 registered native title claim applications at 30 June

[41] See Sections 80.2A and 80.2B of the *Criminal Code Act 1995* (Cth).

2014. This is the lowest number since the end of 1994-95. At 30 June 2014 there had been 238 positive determinations of native title.

**Native Title reforms**

117. The Native Title Act 1993 (Cth) continues to meet the needs of native title stakeholders through targeted government reforms borne out of consultations with state and territory governments, Indigenous stakeholders including native title representative bodies, native title service providers, native title prescribed bodies, and corporate and industry representatives. The Native Title Amendment Act 2009 gave the Federal Court of Australia a central role in managing native title claims mediation by removing the automatic referral of mediation to the National Native Title Tribunal and requiring the court to decide which individual or body would mediate each claim. The Federal Court of Australia has established a priority list to manage the court's native title caseload. Since 1 July 2010 (to the end of the reporting period) there have been 175 determinations, which is more than half of the total number of determinations (309) made since the introduction of the Native Title Act in 1993.

118. In 2012 the government implemented reforms to create better alignment and allocation of functions between the Federal Court of Australia and the National Native Title Tribunal, and to speed the resolution of claims. Of the 65 native title determinations handed down by the Federal Court in 2013-14, 55 were by consent.

119. At 30 June 2014, there were 410 native title claim applications registered with the National Native Title Tribunal. This is the lowest number since the end of 1994-95 (the number of registered applications has decreased by more than a third over this period). The number of consent determinations has continued to increase, indicating recent reforms are contributing to speedier negotiated outcomes.

**South Australia**

120. The state-wide Native Title Resolution process has provided a foundation for collaboration in the area of native title. The process has provided an opportunity for native title groups to discuss land access rights with government and landholders, and to exercise native title rights. To date approximately 73% of South Australia is covered by native title claims and native title determinations. Some 88 Indigenous land use agreements have been negotiated across the State dealing with pastoral, local government, land access, mining and infrastructure issues, and 23 out of 44 native title claims that have been made have been resolved.

121. The Aboriginal Heritage Act 1988 (SA) also provides an opportunity for Aboriginal people to be consulted about how areas of cultural significance, as well as Aboriginal objects and remains, can be protected. Some ministerial powers under the Aboriginal Heritage Act have been delegated to the traditional owners in four areas of the state, which has considerably enhanced the traditional owners' decision-making powers in relation to Aboriginal heritage protection.

122. For more state and territory examples under Concluding Observation 18, see Appendix 1.

**Burden of proof**

123. The government notes the committee's concerns expressed in paragraph 18 of the concluding observations about the standards of proof required for recognition of the relationship between Indigenous peoples and their traditional lands which is referred to as "connection" in the Native Title Act 1993 (Cth). The Act does not provide an express

standard of proof for connection between Indigenous peoples and their traditional lands. That standard of proof has been developed through jurisprudence.

124. On 4 June 2015, the Australian Law Reform Commission (ALRC) released its report Connection to Country: Review of the Native Title Act 1993 (Cth). The report considers the requirements under the Native Title Act for native title claimants to prove connection with the land or waters; and the provisions in the Act for joining parties to claims and authorising claims. In terms of connection, the ALRC recommended removing technical and complex elements required to prove native title and to clarify that native title rights and interests can adapt, evolve or otherwise develop and be transferred or transmitted between Indigenous groups. The ALRC also recommended guidance be given to the Federal Court regarding when inferences may be drawn in the proof of native title. The Report will be considered in the context of the Council of Australian Governments' Investigation into Indigenous land administration and use.

**Effective consultation mechanisms with Indigenous peoples**

125. On 25 September 2013, the Prime Minister's Indigenous Advisory Council was announced. The council is a directly appointed, non-representative group which advises the Prime Minister on Indigenous issues and focuses on practical changes to improve the lives of Indigenous people.[42] It is charged with engaging Indigenous communities, including existing Indigenous advocacy bodies, to ensure the government has access to a diversity of views.

126. The Australian Government also funds a network of service providers throughout Australia to assist native title holders to pursue the recognition of their native title rights and to make agreements about use of native title land.

127. The post-determination environment presents jurisdictions with new challenges to ensure that native title bodies can empower native title holders to leverage their assets for wealth creation and economic development as part of the mainstream economy. The government is working to meet these challenges in a number of ways.

128. Prescribed Body Corporates are the corporations that represent the interests of the native title group. Following extensive public consultations in 2011, the government amended the Native Title (Prescribed Bodies Corporate) Regulations 1999 to improve the flexibility and certainty of the Prescribed Bodies Corporate governance regime so that native title holders are able to use and maximise their native title rights, and engage meaningfully in land management.

129. Australian Government and state and territory ministers responsible for native title met in August 2014 to renew and reinvigorate discussions about the operation of the Native Title Act 1993 (Cth). Ministers committed to work cooperatively to improve social, cultural and economic outcomes from native title for Indigenous people, landholders and communities.

130. State and territory governments are also working to strengthen consultation mechanisms with Aboriginal and Torres Strait Islander peoples.

**Northern Territory**

131. The Northern Territory Government, in cooperation with the Australian Government and the Local Government Association of the Northern Territory, is improving engagement

[42] Details on the Prime Minister's Indigenous Advisory Council available at: http://www.dpmc.gov.au/indigenous_affairs/indigenous_advisory_council/index.cfm.

capacity through the Governance and Leadership Development Project. This initially targets five remote communities with activities including:

- Developing skills to ensure effective engagement with government
- Improving the governance and leadership capacity of individuals and community decision making groups in line with National Partnership Agreements
- Building local capacity to engage in service delivery planning and implementation and
- Assisting community committees and groups to develop and implement operational procedures and strategies that streamline decision making

132. Under the Community Champions Program Initiative, ministers have special responsibility for specific remote communities to create direct linkages to Cabinet as the community champion. Ministers have been discussing with communities a range of topics, with special focus on understanding and supporting economic development aspirations.

133. New programs have been introduced to improve engagement with Indigenous communities and residents including:

134. First Circles – which focuses on engaging future Indigenous leaders from across the territory to bring new voices to the conversation and help build their skills and capacity.

135. Indigenous Male Advisory Council – established to provide guidance, direct policy and generate outcomes for Indigenous men in the territory. The council focuses on:

- Leadership and participation strategies that strengthen positive social cohesion, cultural integrity, men's health, and social and emotional wellbeing
- The safety of territory women, children and families through preventative responses that men can take to family violence that are culturally appropriate and contextually specific
- Providing facilitation, engagement, consultation, policy advice and reporting on issues affecting Indigenous men in the Northern Territory and
- Emphasising the significance of nurturing social and cultural capital in Indigenous communities to strengthen social values, social cohesion and leadership

136. For more state and territory examples under Concluding Observation 18, see Appendix 1.

## Concluding Observation 19 – Provision of legal aid and training for law enforcement personnel and legal profession in the provision of professional and culturally appropriate Indigenous legal and interpretive services within the criminal justice system

### Indigenous legal and interpretive services

137. Australia provides a range of funding for legal assistance – including the Indigenous Legal Assistance Programme which supports high-quality, culturally appropriate and accessible legal assistance to Indigenous Australians across Australia. Funding of approximately $275 million was provided by the Australian Government for Indigenous legal assistance over 2010-11 to 2013-14, with a further $350 million being invested over the next five years. The Australian Government also funds community legal centres to deliver legal information, advice and assistance to disadvantaged people, including Indigenous people.

138. There is a legal aid commission in each state and territory. These are independent statutory bodies jointly funded by the Australian, state and territory governments. They deliver a wide range of family, civil and criminal law services focused on assisting vulnerable and disadvantaged people.

139. While Australian Government funding to legal aid commissions is greater than that provided for Indigenous legal assistance, the percentage of the population serviced by legal aid commissions is also higher than that of Indigenous legal assistance providers. Funding to Indigenous legal assistance providers is quarantined to assistance for Indigenous Australians only. Legal aid commissions also provide assistance to Indigenous clients.

140. Funding provided by the Australian Government for legal assistance is determined through the Federal Budget process. Available programme funds are distributed through funding allocation models, which provide an evidence base for allocating available Commonwealth funding between jurisdictions to support similar access to services across Australia.

141. An independent review of all Australian Government funded legal assistance programmes ("the NPA review") found that generally, legal assistance service providers are performing well, and are delivering services appropriate to meet the legal needs of disadvantaged Australians. The Productivity Commission conducted a review into access to justice arrangements, with a report released in December 2014. The Productivity Commission Inquiry Report into Access to Justice Arrangements specifically examined legal assistance services, and Indigenous legal assistance services. Both of these reports found that there remain significant levels of unmet demand for legal services.

142. The Productivity Commission reaffirmed the need for Indigenous-specific legal services and also found that state and territory governments should contribute towards the funding of Indigenous legal assistance services, given that state laws impacted on service delivery. The findings of both reviews informed the government's consideration of new funding arrangements for legal assistance from 1 July 2015, including the reversal of previously announced savings measures.

143. The Australian Government also funds family violence prevention legal services to provide culturally sensitive legal services and assistance to Indigenous victims of family violence or sexual assault. Fourteen providers are funded to provide services in 31 locations across Australia. Funding for these legal services is being maintained at current levels in 2015-16.

144. The Australian and state and territory governments deliver access to specialised legal assistance and interpreting services. For example, the Commonwealth and Northern Territory provide specialised interpreting, community and legal assistance services for Indigenous peoples. State and territory governments also provide resources relevant to Aboriginal and Torres Strait Islander justice issues for courts, members of the legal profession and for people who come before the courts.[43]

**Western Australia**

145. The Department of the Attorney General's Aboriginal Liaison Program aims to improve Aboriginal people's access to, confidence in, and use of, the range of services provided by the courts. By doing so, it is reducing the over-representation of Aboriginal people as offenders in the criminal justice system. There are seven Aboriginal liaison

[43] For example see: http://www.datsima.qld.gov.au/datsima/aboriginal-torres-strait-islander/government/programs-and-initiatives/justice-resource on a Justice Resource provided by the Queensland Government.

officer positions. A portable community education kit linked to the program was also developed to assist officers when they present education sessions on court processes and services in regional and remote communities. It uses plain language and pictures to explain different situations that Aboriginal people might find themselves in.

146. For more state and territory examples under Concluding Observation 19, see Appendix 1.

**Human rights and cultural awareness training**

147. The Australian Government has made available a suite of educational materials on human rights[44] that aims to:

- Help public sector officials understand their human rights obligations
- Strengthen the capacity of legal and policy officers to deliver services and develop policies, programs and legislation that are consistent with human rights
- Provide guidance to administrative decision-makers on relevant human rights considerations to take into account

148. Anti-discrimination and cultural awareness training is provided to law enforcement officers across all jurisdictions.

149. The Australian Federal Police (AFP) conducts anti-discrimination and cultural awareness training to all sworn staff upon their commencement. Sworn officers are also trained in diversity, cross-cultural awareness, human rights legislation and AFP values covering anti-racism legislation and policy. Religious and cultural diversity, cross cultural awareness and human rights legislation is also integrated into human trafficking and counter-terrorism training. The Federal Police Development Program, which is also undertaken by ACT Policing recruits, is currently being reviewed for its cultural awareness training.

**Queensland**

150. The Queensland Public Safety Business Agency and Queensland Police Service are building the cultural capability of the Queensland Police Service to strengthen community confidence in law and order in Queensland. For example, the Queensland Police Service offers the following training programs through online learning.

151. For more state and territory examples under Concluding Observation 19, see Appendix 1.

## Concluding Observation 20 – Incarceration rates of Indigenous peoples and provision of adequate health care; addressing social and economic factors underpinning Indigenous contact with the criminal justice system

152. The committee is referred to the Australian Government's fifth periodic report under the ICESCR, specifically Concluding Observation 29, (Health Services in Prison).

[44] http://www.ag.gov.au/RightsAndProtections/HumanRights/PublicSector/Pages/default.aspx.

**Law and justice**

153. Ensuring effective law enforcement in providing safe Indigenous communities is one of the Australian Government's top three priorities in Indigenous affairs. It wants safer Indigenous communities where people can make a living and raise healthy families. Safe and stable communities also help drive improvements in other areas of investment, like education and employment.

154. The Australian Government is focused on addressing the underlying factors that bring Indigenous people into contact with the criminal justice system. The evidence points to poor educational and employment outcomes as key factors underpinning Indigenous people's contact with the criminal justice system. Therefore the Government has accordingly prioritised lifting rates of school attendance and employment for Indigenous people to address this situation.

155. Statistics show a pattern of poor community safety, higher rates of imprisonment, short prison sentences, and more returns to prison for Indigenous Australians.

- Indigenous Australians are over-represented in our justice system and are currently 13 times more likely to be imprisoned than non-Indigenous Australians.
- In 2013-14, the age standardised rate of imprisonment for Indigenous Australians was 1857.2 per 100,000 compared with 144.0 per 100,000 for non-Indigenous Australians.
- At 30 June 2014, Indigenous adults represented over one quarter (27%) of the total prisoner population while representing only 3% of the general population (Australian Bureau of Statistics, Prisoners in Australia 2014).
- The age standardised rate of imprisonment for Indigenous people has increased by 39.9% over the last 10 years.
- While the number of Indigenous women in prison remains relatively small (906), Indigenous women represent the fastest growing prison population.
- In 2013-14, Indigenous young people aged 10-17 were 24 times more likely than non-Indigenous young people to be in detention. This ratio increased from 21 times to 24 times more likely in the five year period up to 2013-14. While rates of young people under supervision have decreased over the past five years, the decrease was proportionally greater for non-Indigenous young people than for Indigenous young people.

156. Under the Indigenous Advancement Strategy (IAS),[45] the Australian Government funds a range of activities to address the drivers of Indigenous people's contact with the criminal justice system.[46] This includes activities to increase school attendance, employment and address alcohol abuse. The Safety and Wellbeing Program of the IAS focuses on activities that support wellbeing and community safety, including prevention of family violence, combatting alcohol and other substance misuse, reducing offending and supporting victims of crime.

[45] Further information on the Indigenous Advancement Strategy (IAS) is provided at paragraph 164 of this report.

[46] Further information: www.dpmc.gov.au/indigenous_affairs/ias/.

157. The 2014-15 budget focuses on priorities that seek to improve community safety including:

- Investing in infrastructure to support a permanent police presence in some remote Indigenous communities
- Continuing to fund the Northern Territory Community Engagement Police Officers
- Continuing funding for the Australian Federal Police involvement in the Northern Territory Child Abuse Taskforce

158. Under the Stronger Futures in the Northern Territory package, the Australian Government funds remote policing services, specialist units and policing infrastructure. Additionally, funding is provided to the Northern Territory Aboriginal Interpreter Service to help Indigenous Australians navigate the justice system and access basic community services.

159. In the 2014-15 Budget, the Australian Government committed $54.1 million over four years to support policing in some additional remote Indigenous communities in Queensland, Western Australia and South Australia.

160. The National Indigenous Law and Justice Framework 2009-2015, developed by the then Standing Committee of Attorneys-Generals, supported a national approach to address the complex issues around the interaction between Aboriginal and Torres Strait Islander people and justice systems in Australia. The Framework does not prescribe strategies or actions to be implemented by governments or service providers but serves as a good practice guide for jurisdictions to adopt according to their priorities and resources.[47]

161. The Australian Government is committed to improving the lives of Indigenous Australians, including making communities safer and ensuring the ordinary law of the land applies in Indigenous communities. Efforts to improve outcomes for Indigenous Australians are occurring under the Indigenous Advancement Strategy, with a focus on delivering practical actions that will make a real difference on the ground

**Victoria**

162. The Victorian Aboriginal Justice Agreement between the Victorian Government and Koori[48] community aims to improve Koori justice outcomes and reduce over-representation in the criminal justice system. The first agreement (2000-2006) laid the foundation for improved outcomes by developing robust partnerships and infrastructure, and putting in place a range of new justice initiatives. Now the agreement is in its third phase, work on preventing and reducing Koori overrepresentation in the justice system is continuing, with an increased focus on improving the safety of Koori families and communities.

163. Each phase of the agreement builds and extends on the one that went before it. The latest consolidates and extends successful initiatives and components, ensuring the agreement is well-placed to respond to new challenges.

164. The agreement maintains an emphasis on prevention, early intervention and diversion to reduce further progression into the justice system. It also seeks to reduce re-offending and strengthen the focus on addressing drivers such as alcohol and drugs, mental health, unstable housing and unemployment through offender rehabilitation and behaviour

[47] Further information: http://www.ag.gov.au/LegalSystem/Legalaidprogrammes/NationalIndigenousLawandJusticeFramework/Pages/default.aspx.

[48] The terms Koori and Koories are used in this report, along with Aboriginal and Indigenous, to describe the traditional inhabitants of Victoria.

programs, improved transition support and continuity of care to assist offenders reintegrate into the community.

165. For more state and territory examples under Concluding Observation 20, see Appendix 1.

**Restorative justice, justice reinvestment and diversionary measures**

166. The Australian Government considers that states and territories are best placed to lead any justice reinvestment initiatives in Australia. While more work is required to determine the feasibility of a justice reinvestment approach in the Australian context, the government will continue to work with jurisdictions on efforts to reduce Indigenous incarceration. The focus remains on implementing practical, on-the-ground solutions, which have been shown to improve community safety and reduce disadvantage.

167. At the October 2013 Standing Council on Law and Justice meeting, the Australian and state and territory governments endorsed the National Restorative Justice Guidelines. These aspirational guidelines inform the use of restorative justice programs in criminal law matters in all jurisdictions. The Australian Government funds two restorative justice projects on Mornington Island, Queensland, and at Galiwinku in the Northern Territory. These projects seek to resolve disputes in communities before they escalate.

168. In 2014, the Australian Institute of Criminology published a research report on Restorative justice in the Australian criminal justice system.[49] This details restorative justice practices available in the Australian criminal justice systems, including conferencing for youth and adult offenders and victim-offender mediation practices.

169. The report found that a wide range of restorative justice options are available across Australia. At 30 October 2013, these included:

- Conferencing for young offenders in all Australian states and territories
- Conferencing for adult offenders in New South Wales and South Australia
- Circle sentencing in New South Wales and Western Australia
- Victim-offender mediation in all jurisdictions, except Victoria and the Australian Capital Territory

170. The Australian Government is also committed to evaluating the impact of Indigenous justice initiatives to build the evidence base on what works to reduce offending and re-offending. In 2009, the government provided $2 million to evaluate Indigenous justice programs under the National Indigenous Law and Justice Framework. A total of 26 Indigenous justice services are being evaluated as part of this project. The majority of evaluations were publicly released on the Commonwealth Attorney-General's website in May 2014[50] with the remaining reports currently being finalised.

**Australian Capital Territory**

171. In January 2005 the ACT implemented an innovative model of restorative justice under the Crimes (Restorative Justice) Act 2004 – a legislated program that has at its heart the needs of victims. Since it commenced, the ACT's Restorative Justice Unit has received

[49] Larsen, *Restorative Justice in the Australian criminal justice system*, AIC Reports Research and Public Policy Series 127, 2014. The full report can be accessed via the AIC's website: www.aic.gov.au.

[50] The evaluation reports available at: http://www.ag.gov.au/LegalSystem/Legalaidprogrammes/NationalIndigenousLawandJusticeFramework/Pages/default.aspx.

over 1,538 referrals, involving 2,685 victims and 1,960 offenders. The unit surveys each victim and offender following a restorative justice conference about their experience. In 2012-13, a 97% satisfaction rate was achieved amongst those participating.

172. The 2014-15 ACT budget provided for two justice reinvestment projects and a Justice Reform Strategy. The first justice reinvestment project is to develop a whole-of-government strategy to reduce recidivism and divert offenders—and those at risk of becoming offenders from the justice system. The second project is providing $600,000 for an Australian Research Council Linkage Grant on justice reinvestment, which deals with Aboriginal and Torres Strait Islander incarceration rates.

173. For more state and territory examples under Concluding Observation 20, see Appendix 1.

**Circle sentencing**

174. Circle sentencing often falls under the umbrella of Indigenous courts in Australia. Indigenous courts have been established in New South Wales, Victoria, Queensland,[51] Western Australia, South Australia and the Australian Capital Territory. These courts provide a more culturally responsive and appropriate alternative to the traditional court systems. Such courts may have "restorative" elements, but they are not necessarily examples of restorative justice due to the focus on offender rehabilitation and the traditional role of the victim in the process.[52]

**Western Australia**

175. Circle sentencing courts offer an alternative sentencing process for Indigenous offenders and include Aboriginal elders in the decision making process. The Barndimalgu Court in Geraldton deals with family violence issues, with adult community corrections officers providing assessment, progress and presentence reports; supervising offenders while they are engaged in the program and referring offenders released on conditional bail to the Indigenous Family Violence Program. The Kalgoorlie-Boulder Community Court for adult Indigenous offenders consists of a presiding magistrate and two elders of the Indigenous community. Circle sentencing courts assess and supervise services while the offender is released on bail subject to supervision.

176. For more state and territory examples under Concluding Observation 20, see Appendix 1.

**Indigenous youth in the criminal justice system**

177. On 20 June 2011 the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs tabled its report, Doing time – time for doing: Indigenous youth in the criminal justice system.[53] The Australian Government accepted all 40 of the

[51] Indigenous Court services were available in Queensland for parts of the CERD reporting periods. However, some of these services were cut by the previous Queensland Government. The current Queensland Government, elected in January 2015, announced in its 2015-16 budget that court-based referrals to Youth Justice conferencing, the Murri Court and a Special Circumstances Court Diversion program would be re-established. Further information available at: http://statements.qld.gov.au/Statement/2015/7/14/court-programs-to-address-crime-reinstated.

[52] Australian Institute of Criminology, *Restorative justice in the Australian criminal justice system*, available at: http://www.aic.gov.au/publications/current%20series/rpp/121-140/rpp127/05_restorative.html.

[53] Available at: http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=atsia/sentencing/report.htm.

report's recommendations in whole or in part. The government's response sets out where action has been taken against specific recommendations.[54]

178. Further efforts to improve Indigenous community safety are occurring under the Indigenous Advancement Strategy's Safety and Wellbeing Programme. The Australian Government funds a range of youth crime prevention and diversion activities under the Strategy and is working with State and Territory Governments to improve outcomes for Indigenous juveniles and keep them from coming into contact with the justice system.

**New South Wales**

179. Data on the juvenile justice population indicates that in 2013-14 total admissions to juvenile justice detention centres was 3,684; a 27% decrease since 2009-10.

- Of these, 1,602 (43%) identified as Aboriginal or Torres Strait Islander; a 28% decrease on the numbers of Aboriginal or Torres Strait Islander young people admitted to custody in 2009-10.
- The average number of young people in juvenile justice detention centres on any one day was 314; a 27% decrease from 2009-10.
- Of the Indigenous juveniles who were in the care or under supervision by juvenile justice:
    - 2,108 were under community supervision (being 39.8% of the total juveniles under community supervision)
    - 364 were referred for a youth justice conference (being 28% of the total juveniles referred for a youth justice conference)
    - 1,310 were remanded in custody (42% of the total juveniles remanded in custody)
    - 292 were sentenced to detention (being 51% of the total juveniles sentenced to detention)

180. Juvenile Justice's capacity to deliver policy, programs and services in a culturally appropriate way is supported though the Aboriginal Strategic Plan and cultural respect training. The Aboriginal Strategic Plan includes the Aboriginal Recruitment and Retention Strategy and the Aboriginal and Torres Strait Islander Cultural Respect Framework. Juvenile Justice provides educational, recreational, vocational, specialised counselling and personal development programs to help young people reintegrate into their communities on their release. Programs specifically designed for or targeted at Aboriginal young people include:

- DthinaYuwali: a group work program developed by Juvenile Justice's Aboriginal staff for Aboriginal young people with substance-related offending. This program is implemented in the community and in custody.
- Our Journey to Respect: a group session program for young Aboriginal males that aims to reduce the incidence of family and inter-generational violence. This package is currently being reviewed by the agency with a view to strengthening it.

[54] Please see Annex 16 for the Government's response to the report *Doing Time- Time for Doing: Indigenous Youth in the Criminal Justice System*, available at: http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=atsia/govt%20responses/doingtimeresponse.pdf.

- The Intensive Supervision Program: a family focused approach operating in the Hunter and Western Sydney areas that has proven successful for young offenders from all backgrounds including Indigenous populations. The program seeks to empower caregivers to address systemic factors that lead to or maintain offending. It addresses a range of issues, including aggression, substance abuse, financial problems, housing needs, family conflict and negative peer pressure. Of the 35 families who completed the program in 2013-14, 29% were Indigenous.
- Act Now Together Strong: an intensive family focused intervention that aims to create lasting change addressing the issues that put a young person at risk of reoffending. The program has a high level of participation from indigenous families.

181. For more state and territory examples under Concluding Observation 20, see Appendix 1.

**Indigenous women in the criminal justice system**

182. In recognition of the particular impact the criminal justice system can have on women, state and territory governments have introduced gender-specific policies and programs, many of which seek to provide guidance for Indigenous women and supervising correctional officers.

**South Australia**

183. To help gain a better understanding of the profile of Aboriginal women offenders throughout the South Australian criminal system, a dedicated principal advisor position for female offenders was created in 2012-13. The advisor will lead development of a strategic framework to prioritise women offenders, especially Aboriginal women. This is expected to result in better-targeted service delivery to female offenders.

184. Imprisonment numbers are reported publicly in the annual Report on Government Services, published by Australia's Productivity Commission. The Report includes specific data in the Justice chapter on imprisonment of Aboriginal and Torres Strait Islander adults, both nationally and in each state and territory. The 2015 Report indicates that some jurisdictions experienced an increase in the average daily female Indigenous prisoner population over the last three years, although the average in South Australia did not significantly increase (45, 47 and 47 respectively in each year over 2011-14).

185. For more state and territory examples under Concluding Observation 20, see Appendix 1.

**Implementation of recommendations of the Royal Commission into Aboriginal Deaths in Custody**

186. All levels of government have taken steps to implement the recommendations made by the 1991 Royal Commission into Aboriginal Deaths in Custody, which aim to reduce the representation of Indigenous persons in custody. This includes the introduction of diversionary programs and improvements to custody conditions.

187. The Australian Senate passed a motion in March 2011 in acknowledgment of the 20th Anniversary of the Deaths in Custody Report.[55] The motion called on the Australian Government to:

- Consider the outcomes of current reviews underway into the implementation of the recommendations of the Royal Commission
- Undertake to report on progress and gaps, and map out further action
- Work with the states and territories to audit standards and independent monitoring of places of detention, and consider options to promote consistency across jurisdictions

188. One of the objectives under the National Indigenous Law and Justice Framework is to ensure that the findings of Royal Commission into Aboriginal Deaths in Custody continue to guide governments, service providers and communities to address current issues in law and justice for Aboriginal and Torres Strait Islander peoples.

189. All levels of government continue to fund a National Coroner's Information System, with information on every death reported to a coroner since July 2000 (January 2001 for Queensland). This database enhances the ability to identify any trends or patterns in reportable deaths, identify risk factors, and inform evidence based policy.

**Western Australia**

190. States and territories have also introduced measures to reduce the number of deaths in custody with a focus on suicide prevention. In Western Australia this includes:

- Electronic At-Risk Management System, which increases transparency, accountability and provides a whole-of-prison approach to further reduce incidents of self-harm and suicide.
- Support and Monitoring System, which provides a collaborative case management system for prisoners who are not at acute risk to self-harm, but require intervention or additional support and monitoring while in custody. This includes those considered emotionally vulnerable, those with sensitive cultural and spiritual issues, those with "dangerous sex offender" alerts and those who are held under the Criminal Law (Mentally Impaired Accused) Act 1996 (WA).
- Suicide awareness training courses – including a two-day gatekeeper suicide awareness workshop delivered to Department of Corrective Services' staff and prisoners – to increase the ability of participants to identify and refer people considered to be a self-risk.
- A Cell Ligature Removal Program, where 425 cells have had all suicide ligature points removed and 528 cells have had the three most commonly utilised ligature points removed.

**Tasmania**

191. There have been no recorded Aboriginal and Torres Strait Islander unnatural deaths in Tasmanian prisons since data collection commenced in the early 1980s. Two deaths due to apparent natural causes are recorded for that same period. Areas of the Tasmania Prison Service are now designed to accommodate "at risk" prisoners.

192. For more state and territory examples under Concluding Observation 20, see Appendix 1.

[55] Report available at: http://www.aic.gov.au/publications/current%20series/mr/1-20/20.html.

**Prison conditions and the provision of adequate health care to prisoners**

193. The committee is also referred to Australia's fifth report under the International Covenant of Economic, Social and Cultural Rights at Concluding Observation 29 (Health Services in Prisons).

194. In Australia, state and territory governments are responsible for managing and operating prisons, including health service delivery. The Commonwealth does not own or operate any prisons.

195. The states and territories deliver corrective services in accordance with the Standard guidelines for corrections in Australia, which comprise a uniform set of principles that are used by states and territories in developing their own legislative, policy and performance standards on correctional practice. These guidelines comply with the UN Standard Minimum Rules for the Treatment of Prisoners and Article 10 of the International Covenant on Civil and Political Rights.

196. The guidelines state that prisoners should be managed fairly and openly without discrimination. Prisoners should also be managed in a manner consistent with their individual needs regarding health, disability, culture and language. Key aspects of the guidelines include:

- Physical separation of certain classes of prisoners, such as males from females, adults from juveniles, and convicted prisoners from those on remand
- Ensuring adequate accommodation, including regular maintenance of all prison cells and facilities
- Providing clothing and bedding suitable for the climate and adequate to keep prisoners in good health
- Providing continuous access to clean drinking water and a supply of nutritious food, adequate for the health and wellbeing of prisoners, at the usual hours, prepared in accordance with relevant health standards

**New South Wales**

197. All inmates, including Indigenous, are provided with a comprehensive range of health services including nursing, general medical, psychiatric, dental and optometry. Every person entering custody undergoes a comprehensive health assessment.

198. Aboriginal health issues are addressed through both mainstream and targeted programs and services. For example, the Aboriginal chronic care program, Murr-roo-ma dhun-barn (Worimi language for "to make strong") is run by the Aboriginal health team from Justice Health. The program is operational in 15 correctional centres (including 14 adult correctional centres and the Kariong Juvenile Correctional Centre) throughout the state.

199. For more state and territory examples under Concluding Observation 20, see Appendix 1.

**Complaint mechanisms**

200. A number of authorities have jurisdiction to investigate complaints about prison conditions, including complaints about human rights breaches. These include the AHRC, state and territory ombudsman's offices, and internal corrective services review bodies (corrections inspectorates).

**Tasmania**

201. Prisoners have access to a wide-range of mechanisms for raising concerns or lodging complaints about conditions or individual treatment. These include an internal complaints system, direct telephone access to the ombudsman, confidential access to their legal representatives as well as the Integrity Commission.

## Concluding Observation 21 – Preservation of national languages

202. The committee is also referred to Australia's Fifth Periodic Report to the ICESCR at Concluding Observation 33 (National Indigenous Language Survey).

**Indigenous languages**

203. The 2011 Census indicated that about 61,000 people speak an Indigenous language. Of these, approximately 19% speak an Australian creole (that is, a combination of English, Indigenous and other languages).

204. The Australian Government recognises that arts and languages are essential to the wellbeing, culture and identity of Aboriginal and Torres Strait Islander peoples and play an integral role in maintaining the sustainability, vitality and strength of Indigenous communities and is committed to providing targeted funding through the Indigenous Visual Art Industry Support and Indigenous Languages and Arts programs. The Australian Government continues to support activities in the field of Indigenous languages so that they can continue to be safeguarded and passed on to future generations, preserving this important part of Australia's cultural heritage. To ensure Australia's estimated 250 Indigenous languages are maintained, revived and transmitted for posterity, the government supports community based activities, language research and the development of language resources by regional language centres and other key advocacy and training organisations across Australia.

**Australian Capital Territory**

205. Local schools and community-based organisations partner to develop programs that promote and teach Aboriginal and Torres Strait Islander languages, culture and history.

206. For more state and territory examples under Concluding Observation 21, see Appendix 1.

**Indigenous languages in schools**

207. The Australian Government is committed to working with state and territory education authorities to maximise the learning opportunities and life chances of Aboriginal and Torres Strait Islander Australians. The government recognises the important role Indigenous language learning plays in some schools and communities. However, decisions about how schools offer learning programs, including bilingual education, are matters for education authorities.

208. A Framework for Aboriginal Languages and Torres Strait Islander Languages is being developed by the Australian Curriculum, Assessment and Reporting Authority as part of the Australian Curriculum: Languages. This will provide a guide for schools to support the teaching and learning of Aboriginal and Torres Strait Islander languages.

209. The framework will cater for all the Aboriginal and Torres Strait Islander languages of Australia, irrespective of whether it is still a language of a community used for everyday communication or a language that is beginning to be revitalised. The framework will also take into account that the study of Aboriginal and Torres Strait Islander languages is as

much about what it is to be an Indigenous Australian today, as it is about ancient traditions and social, cultural and linguistic continuity with the past.

210. Under new funding arrangements that commenced in January 2014, the Australian Government is providing significant additional school funding to states and territories over four years. Funding is determined on a base per student amount plus specific loadings that address identified student and school need.

211. These loadings are targeted at students from low socioeconomic backgrounds, Aboriginal and Torres Strait Islander students, students with limited English skills and students with disability, as well as small schools and schools in regional and remote areas. Additional funds provided to state and territory education authorities can be used to support Indigenous language programs.

**Victoria**

212. The Victorian Government's Vision for Languages Education (2011) supports Aboriginal communities to extend the teaching and learning of Aboriginal languages. This includes improving learning outcomes for Aboriginal students and developing a richer knowledge and appreciation of Aboriginal cultures in all students.

213. Victoria has:

- Provided $100,000 in grants to develop learning resources and to pilot new teaching programs in three locations
- Developed standards and protocols to reclaim and teach Aboriginal languages and cultures in Victorian schools

214. Ongoing work is underway with the Victorian Aboriginal Corporation for Languages and the Aboriginal Education Association Inc. to raise awareness about opportunities for learning Aboriginal languages in school communities.

215. For more state and territory examples under Concluding Observation 21, see Appendix 1.

**Minority languages**

216. While English is the official language, there are over 200 languages spoken in Australia. According to the 2011 Census data, 18% of people spoke a language other than English at home in 2011. The dominant language spoken at home was Mandarin (1.6%) followed by Italian (1.4%), Arabic (1.3%), Cantonese (1.2%) Greek (1.2%) and Vietnamese (1.1%).[56]

**Australian Capital Territory**

217. The 2012-2016 ACT Language Policy takes a whole-of-government approach to the use of interpreter services. The policy details the ACT Government's commitment that all Canberrans:

- Have the opportunity to acquire English language skills
- Can access language services to improve their use of government funded services and programs
- Are encouraged to learn and treasure languages other than English

[56] http://profile.id.com.au/australia/language.

- Embrace the economic benefits of the knowledge of other languages and cultures to increase tourism, global markets, trade and international education

218. For more state and territory examples under Concluding Observation 21, see Appendix 1.

## Concluding Observation 22 – Eradicating socio-economic disparities, cultural appropriateness of public service delivery, Indigenous self-empowerment

219. The committee is referred to the Australian Government's fifth periodic report under the ICESCR; specifically Concluding Observation 18 (Unemployment rates).

220. In 2008, the Council of Australian Governments agreed to six targets to address disadvantage faced by Indigenous Australians in life expectancy, child mortality, education and employment.[57] In 2014 a new target to increase school attendance within five years was also agreed. The Prime Minister reports annually on progress made against the targets in the Closing the Gap report. These reports can be found on the Department of the Prime Minister and Cabinet website.[58]

221. The 2015 Closing the Gap report is the seventh. It acknowledges that "although there has been some improvement in education and health outcomes for Indigenous Australians, in many areas progress has been far too slow". Key findings of the seventh report include:

- Indigenous life expectancy and mortality have improved slightly, but progress will need to accelerate considerably if the gap is to be closed by 2031.
- Progress has slowed on the target to halve the gap in child mortality, but the target is broadly on track to be met by 2018.
- The target for Indigenous four year olds in remote communities to have access to early childhood education by 2013 was not met. Through the extended National Partnership Agreement on Universal Access to Early Childhood Education, all states and territories have committed to achieving the target of 95% access by 2015.
- No overall progress was made on the target to halve the gap in reading and numeracy achievements for Indigenous students by 2018.
- The target to halve the gap in Year 12 attainment by 2020 is on track.
- No progress has been made against the target to halve the employment gap within a decade.

222. The 2014 Overcoming Indigenous disadvantage report measures the wellbeing of Indigenous Australians and was produced in consultation with governments and Indigenous Australians. The report shows some positive trends in Indigenous wellbeing, with improvements in health, education and economic outcomes. However there has been little or no change in some indicators such as literacy and numeracy at school and more work remains to be done.

223. Economic outcomes have improved over the longer term, with higher incomes, lower reliance on income support, increased home ownership, and higher rates of full-time and professional employment. The proportion of adults whose main income was from

[57] Available at: https://www.coag.gov.au/closing_the_gap_in_indigenous_disadvantage.
[58] Further information available at: www.dpmc.gov.au/publications/index.cfm.

employment increased from 32% in 2002 to 41% in 2012-13, with a corresponding decrease in the proportion on income support. Increasing proportions of people were in full-time and managerial positions.

224. In 2013, the Australian Government commissioned a review of Indigenous training and employment programs led by Mr. Andrew Forrest. The Forrest Review was made public on 1 August 2014.[59] It makes 27 recommendations to create parity between Indigenous and other Australians. In addition to Indigenous training and employment programs, the recommendations targeted pre-natal care, early childhood services, school attendance, welfare, vocational education and training, Indigenous land reform, and housing and mobility.

225. In August and September 2014, national consultations were held, and submissions were invited to obtain feedback on the review. At its 10 October meeting, the Council of Australian Governments agreed to a range of actions to lift Indigenous school attendance and to reach bilateral agreements with the Commonwealth on priority areas within the review.

226. In line with the Forrest Review's recommendations, the government is reforming employment services for job seekers in remote Australia to provide real pathways to employment through participation in work-like activities and building work skills. This includes the introduction of Work for the Dole in remote communities, with the majority of remote job seekers to undertake work-like activities five days a week, 12 months of the year.

**Indigenous Advancement Strategy**

227. The Indigenous Advancement Strategy (IAS) commenced on 1 July 2014 and replaced more than 150 individual programs and activities that were delivered by the government into five overarching programs. This new flexible program structure will support a new way of engaging with Indigenous people, communities, industries, business and service providers, allowing for joint development and implementation of solutions that will sustainably improve outcomes, including through regional and place-based solutions. The new program streams are:

- Jobs, land and economy
- Children and schooling
- Safety and wellbeing
- Culture and capability and
- Remote Australia strategies

**Remote Service Delivery National Partnership Agreement**

228. An IAS grant funding round was held in 2014-15. In this round the Australian Government recommended more than $1 billion in funding for 996 organisations and over 1,350 projects. In total, 46% of recommended organisations are Indigenous and 55% of funds under the IAS grant round have been recommended to go to Indigenous organisations.

[59] Further information available at: https://indigenousjobsandtrainingreview.dpmc.gov.au/forrest-review.

229. The Department is currently reviewing the IAS Guidelines and will be holding public consultations over the coming months on the IAS grant round and funding guidelines, to talk about community and organisational experiences of the process to date and to seek input into new IAS Guidelines.

230. The National Partnership Agreement on Remote Service Delivery expired on 30 June 2014 and was not extended as, in most cases, outcomes had not improved in the 29 remote communities. The government is committed to a new engagement with Indigenous Australians to deliver practical action in the priority areas of getting children in school, adults in jobs and developing safer communities.

231. The new approach under the IAS will drive outcomes by working with Indigenous communities to tailor solutions to local problems and putting Indigenous people at the centre of design and delivery. The government's regional network will also see senior decision makers located closer to, and working more effectively with, communities.

**Indigenous Opportunities Policy**

232. The Indigenous Opportunities Policy will enable Indigenous Australian business entities to become part of the supply chain to the Australian Government. The policy encourages supplier diversity and forms a key part of the Australian Government's strategy to halve the gap in employment outcomes between Indigenous and non-Indigenous Australians. While the policy is focused on creating training and employment opportunities in the area a project is being delivered, Indigenous businesses from across the country can be subcontracted if Indigenous suppliers are not available locally. While the number of businesses and contracts can fluctuate, there were 276 Indigenous businesses represented on the database in October 2014.

233. The review of Indigenous Training and Employment Programmes, The Forrest Review – Creating Parity,[60] makes a number of recommendations regarding government purchasing of goods and services and tax-free status for Indigenous run businesses, which are being considered by the government.

**New South Wales**

234. The Ministerial Taskforce on Aboriginal Affairs Progress Report outlines a number of initiatives under consideration. These are designed to strengthen the connection between education, training and employment.

**Opportunity hubs**

235. Opportunity hubs provide pathways and supported transitions for young people from early years through to tertiary education and employment. Partnerships are brokered with local businesses, industry leaders, non-government organisations and local government to coordinate employment and training opportunities for young Aboriginal people.

**Industry agreements**

236. The state government is working with industry bodies on private sector initiatives, such as industry-specific agreements, to improve employment and retention of Aboriginal employees. The corporate sector can create employment opportunities by purchasing services from Aboriginal businesses. The public sector can also encourage greater employment and business opportunities through government projects and procurement.

[60] https://indigenousjobsandtrainingreview.dpmc.gov.au/forrest-review.

**Aboriginal employment in the public sector**

237. The taskforce has asked the Public Service Commission to incorporate a focus on strengthening Aboriginal employment at both entry level and through supported progression to senior positions.

238. For more state and territory examples under Concluding Observation 22, see Appendix 1.

## Concluding Observation 23 – International students and racially motivated violence

239. The Australian Government submitted a response addressing this concluding observation on 29 August 2011.[61] See also the response to Concluding Observation 17 (above) regarding the Australian and New Zealand Standard Offence Codes.

**Victoria**

240. The Victorian Equal Opportunity and Human Rights Commission is the statutory body that has responsibilities under the Equal Opportunity Act 2010, the Racial and Religious Tolerance Act 2001 (VIC) and the Victorian Charter of Human Rights and Responsibilities Act 2006. People with complaints of racial discrimination or vilification can take their matters to the commission for dispute resolution or directly to the Victorian Civil and Administrative Tribunal to have the matters heard and determined. In 2013-14, race was the second most common reason for making a discrimination complaint to the commission (about 11% of all complaints). More than half of the 25 complaints taken to commission under the Racial and Religious Tolerance Act concerned racial vilification.

241. In August 2014 the commission, Victoria Police and the Victorian Aboriginal Legal Service launched the Reporting Racism project-an online reporting tool for the Aboriginal community to report any incident of race discrimination (including third-party reporting).[62]

242. For more state and territory examples under Concluding Observation 23, see Appendix 1.

## Concluding Observation 24 – Immigration policies, "excised offshore places"

243. Australia takes its obligations under international law seriously with respect to immigration policies, including its obligations relating to non-refoulement under international human rights law and refugee law. Australia gives effect to these obligations through a combination of legislation, policy and practice.

**Excised offshore places**

244. "Excised offshore places" remain part of Australian territory and Australian migration legislation continues to apply. Excision was introduced in 2001 and has remained in place as a way to reduce instances of people entering Australia by means of hazardous sea voyages and to deter the activities of people smugglers.

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[61] CERD/C/AUS/CO/15-17/Add.1 is available at: http://tb.ohchr.org/default.aspx?country=au and is provided at: Appendix 4.

[62] Further information on Reporting Racism project available at: www.humanrightscommission.vic.gov.au/index.php/our-projects-a-initiatives/reporting-racism.

245. The effect of designating an "excised offshore place" is that non-citizens who have first entered Australia via an "excised offshore place" without a valid visa are, in effect, barred from making a valid visa application on arrival or during their stay in Australia, unless the Immigration Minister lifts the bar in the public interest.

246. In May 2013, the Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Act 2013 (Cth) was passed. This amended the Migration Act 1958 (Cth) to provide that individuals who arrive on the Australian mainland on or after 1 June 2013 by unauthorised maritime means are given the same legal status and access to processing arrangements as those who enter at an excised offshore place. The Migration Act was also amended to allow the transfer of unauthorised maritime arrivals who entered Australia after 13 August 2012 to regional processing countries. This also removed the incentives for people to risk their lives seeking to reach the Australian mainland to avoid being subject to regional processing arrangements.

247. The effect of these amendments is that a non-citizen who arrives anywhere in Australia by sea without a valid visa is barred from making a valid visa application unless the minister allows them to do so and, for those people arriving after 13 August 2012, they are subject to transfer to a regional processing country.

**Suspension of processing (Afghan asylum seekers)**

248. Processing of asylum claims by Sri Lankan and Afghan asylum seekers was suspended for periods of three and six months respectively on 9 April 2010. The suspensions were introduced to allow time for relevant, up-to-date information on the security and humanitarian conditions in those countries to be collected for use in refugee assessments.

249. The suspensions were lifted on 6 July 2010 for Sri Lankan asylum seekers and on 30 September 2010 for Afghan asylum seekers. A total of 184 Sri Lankan and 1,202 Afghan irregular maritime arrivals were affected by the suspension.

250. All affected asylum seekers had their claims assessed on a case-by-case basis, in line with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (the Refugees Convention) and with reference to updated country information. All asylum seekers who had applications submitted and were therefore affected by the suspension were provided an Immigration Advice and Application Assistance Scheme (IAAAS) agent, and were assisted to prepare a statement of their claims.

251. While IAAAS services continue to be available to authorised arrivals, access to the service was limited to assistance at the primary process only and all IAAAS services were withdrawn from unauthorised maritime arrivals and unauthorised air arrivals from 31 March 2014.

252. Since the suspensions were lifted in 2010, the Department of Immigration and Border Protection (formerly the Department of Immigration and Citizenship) has not suspended the processing of any cohorts of asylum seekers who were subject to detention.

**Non-refoulement**

253. As noted above, Australia takes its non-refoulement obligations under international human rights law and refugee law seriously. For asylum seekers who arrive in Australia legally (that is, with a valid visa), Australia grants protection visas to those asylum seekers who are found to be refugees and who satisfy health, character and security requirements.

254. From 24 March 2012, complementary protection claims have been considered as part of the protection visa assessment process. Complementary protection is the term used to describe a category of protection for people who are not refugees but cannot be returned

to their home country, in line with Australia's international obligations under human rights treaties, because there is a real risk that the person will suffer certain types of harm. These international obligations arise under international human rights conventions that Australia is a party to, including the International Covenant on Civil and Political Rights (ICCPR) and its Second Optional Protocol, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

255. For asylum seekers subject to regional processing arrangements, processes are in place to ensure transfers to the regional processing country are consistent with Australia's non-refoulement obligations under the Refugees Convention, the ICCPR and CAT. In the memoranda of understanding with both Nauru and Papua New Guinea that set up these arrangements, both countries assured Australia that they would assess, or permit an assessment to be made, of the transferees' refugee status. In addition, those countries assured Australia that asylum seekers will not be expelled or returned to another country where their life or freedom would be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion, or where there is a real risk that they will be subjected to torture, cruel, inhuman or degrading treatment or punishment, arbitrary deprivation of life or the imposition of the death penalty.

256. The Government's policy is to intercept any vessel seeking to illegally enter Australia and safely remove it beyond our waters. Measures and safeguards are in place to enable actions and activities to be undertaken in a manner consistent with Australian domestic law and Australia's obligations under international law. Potential illegal maritime arrivals may be subject to an assessment process on water to determine whether they engage Australia's non-refoulement obligations under international law. Interviews are conducted by trained protection officers, supported by qualified interpreters.

257. The enactment of the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014 (Cth) has clarified Australia's international law obligations under the Refugees Convention reintroduced temporary protection visas for Illegal Maritime Arrivals (IMAs). Further information on this legislation, which was enacted outside the CERD reporting periods, can be found at Appendix 3.

**Cooperation with United Nations High Commissioner for Refugees (UNHCR)**

258. The Australian Government is committed to working closely with UNHCR to address issues of shared interest and concern, including the challenges of irregular migration and to improve protection outcomes for refugees. We are working with UNHCR to explore and develop a range of practical arrangements for regional cooperation, particularly through consideration of UNHCR advice on the development of a stronger protection environment in the Asia–Pacific region and global refugee resettlement needs.

259. In September 2012, Australia signed its first multi-year partnership framework with UNHCR, with Australia endeavouring to provide a total of $105 million over four years (2013-2016). At 30 June 2014, Australia had provided $40 million to UNHCR under the partnership framework. Funding for the forward years is yet to be confirmed. The partnership framework also established annual high-level consultations between Australia and UNHCR which provide opportunities to raise and discuss issues of mutual concern.

## Concluding Observation 27 – Human rights education

260. The committee is referred to Australia's fifth periodic report under the ICESCR, specifically Concluding Observation 34 (Human rights education).

**Australian Curriculum**

261. The Australian Curriculum, Assessment and Reporting Authority's work in developing the Australian Curriculum is guided by the Melbourne Declaration on Educational Goals for Young Australians. This declaration recognises the fundamental role that education plays in building a society that is "cohesive and culturally diverse, and that values Australia's Indigenous cultures".

262. Throughout 2010-12, the AHRC worked closely with the Australian Curriculum, Assessment and Reporting Authority, and provided extensive submissions on the history, geography, health and physical education, and civics and citizenship curricula.

263. The Commission published a series of education resources, called RightsED, which are mapped to the national curriculum. These resources are designed to help students gain a critical understanding of human rights and responsibilities, and to develop the attitudes, behaviours and skills to apply human rights in everyday life.

264. Intercultural understanding is one of seven general capabilities in the Australian Curriculum for Foundation to Year 10. In the Australian Curriculum students develop intercultural understanding as they learn to value their own cultures, languages and beliefs, and those of others. This capability involves students learning about and engaging with diverse cultures in ways that recognise commonalities and differences, create connections with others and cultivate mutual respect.

265. Understanding Aboriginal and Torres Strait Islander histories is a cross-curriculum priority in the Foundation to Year 10 Australian Curriculum. This priority provides opportunities for learners to deepen their knowledge of the world's oldest continuous living cultures.[63]

266. Asia and Australia's engagement with Asia is another cross-curriculum priority in the Foundation to Year 10 Australian Curriculum. This priority ensures that students learn about and recognise diversity within and between the countries of the Asian region, and develop knowledge and understanding of Asian societies, cultures, beliefs and environments. This priority also builds understanding of the diversity of cultures and people living in Australia, fostering social inclusion and cohesion.[64]

267. In 2014, the Australian Government reviewed the Australian Curriculum to evaluate its robustness, independence and balance. In October 2014, the government released the final report of the review and its initial response.[65] As a next step, the curriculum review was discussed at the education council of federal, state and territory education ministers. All ministers agreed to refer the recommendations relating to overcrowding of the curriculum, parental engagement, accessibility for students with disability and rebalancing the curriculum (outlined in the Australian Government's initial response to the review), to the Australian Curriculum, Assessment and Reporting Authority for advice.

268. Following this, the Government will work with the state, territory and non-government schools sectors to consider any changes to the curriculum.

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[63] Further information on Aboriginal and Torres Strait Islander cross-curriculum priority available at: http://www.australiancurriculum.edu.au/CrossCurriculumPriorities/Aboriginal-and-Torres-Strait-Islander-histories-and-cultures.

[64] Further information on Asia and Australia's engagement with Asia cross-curriculum priority available at: http://www.australiancurriculum.edu.au/CrossCurriculumPriorities/Asia-and-Australias-engagement-with-Asia.

[65] Report and initial Government response available at: http://www.studentsfirst.gov.au/review-australian-curriculum.

**Northern Territory**

269. The Northern Territory has been working to implement the Australian Curriculum, with Aboriginal and Torres Strait Islander histories and cultures as a cross curriculum priority and embedded in all learning areas. Northern Territory teachers are also able to access a set of Indigenous studies modules that have been developed using local stories, histories and cultures. These are currently being reworked to ensure alignment with the Australian Curriculum. The modules support teachers to develop knowledge and understanding of Indigenous perspectives and to integrate these across learning areas.

270. Through teaching the Indigenous Studies: History and Identity modules teachers can help students gain an appreciation of the importance of Aboriginal and Torres Strait Islander cultures as part of the heritage of every Australian.

271. For more state and territory examples under Concluding Observation 27, see Appendix 1.

**Community and adult education**

272. The Australian Government has developed a range of easy-to-use educational materials on human rights tailored to public sector officials. Material was also developed to strengthen the capacity of legal and policy officers to assess human rights compatibility of policies and legislation, and for administrative decision-makers on relevant human rights considerations. At the federal level, more than 700 public sector officials were trained on the requirements under the Human Rights (Parliamentary Scrutiny) Act 2011 (Cth).

273. In Victoria and the Australian Capital Territory, two Australian jurisdictions with Charters or Human Rights Acts (Charter of Rights and Responsibilities Act 2006 (Vic) and Human Rights Act 2004 (ACT)), human rights training on the rights, responsibilities and obligations, under their respective charters, are being delivered to public service graduates.

274. A core function of the AHRC is promoting understanding and acceptance, encouraging public discussion of human rights, and undertaking human rights education programs.

275. In 2014, the AHRC published the Declaration Dialogue Series on the Implementation of the United Nations Declaration on the Rights of Indigenous Peoples. These papers are designed to engage with and educate Australian audiences. The AHRC also chairs the National Anti-Racism Partnership which brings together existing expertise on anti-racism and multicultural matters across government and non-government representatives.

276. The National Anti-Racism Strategy was developed as part of the National Anti-Racism Partnership, and launched in August 2012. The strategy focuses on public awareness, education resources and youth engagement, and is underpinned by research, consultation and evaluation. It aims to promote a clear understanding in the Australian community of what racism is, and how it can be prevented and reduced.

277. Objectives of the strategy are to:

- Create awareness of racism and how it affects individuals and the broader community
- Identify, promote and build on good practice initiatives to prevent and reduce racism
- Empower communities and individuals to take action to prevent and reduce racism and to seek redress when it occurs

278. The primary awareness raising and engagement activity within the strategy is the Racism. It stops with me campaign. This campaign aims to:

- Ensure more Australians recognise that racism is unacceptable in our community
- Give more Australians the tools and resources to take practical action against racism
- Empower individuals and organisations to prevent and respond effectively to racism

279. The campaign has been endorsed by over 360 organisations in the areas of arts and culture, business, sport, education, health and the legal profession, as well as peak bodies, non-government organisations, local governments and the public sector.

280. In September 2013, the AHRC's Race Discrimination Commissioner, Dr Tim Soutphommasane, published a report evaluating the work of the strategy. It found that:

- 85% of respondents said that awareness of racism had increased among their organisation's staff, customers, clients, members and affiliates
- 70% of respondents said they had implemented anti-racism activities to support the campaign, such as developing anti-racism policies and procedures, holding events or making a public statement against racism
- 52% of respondents felt they were better equipped to respond to racism since signing on to the campaign

**Tasmania**

281. The Tasmanian Government supports the National Anti-Racism Strategy and is committed to a policy agenda that promotes inclusivity. Educational programs promoting youth engagement in these goals are ongoing. "Students against Racism" won the 2013 as well as the 2009 Tasmanian Human Rights School Award.

282. Tasmania includes human rights education within the curriculum. The development and implementation of the Respectful Schools Respectful Workplaces Framework helps build a culture of respect and mutual trust.

283. The Office of the Anti-Discrimination Commissioner in Tasmania undertakes an extensive program of activities to promote cross-cultural understanding and racial tolerance, including:

- Delivering 156 workplace training sessions to over 2,500 participants in 2013-14 to help people define, recognise and deal with racism
- Participating in 117 community awareness sessions reaching more than 6,800 people across Tasmania in 2013-14
- Developing a broad-based diversity in education school program in partnership with the community organisation A Fairer World
- Continuing involvement in the "Play by the Rules" initiative, which promotes sporting cultures that are inclusive and free of harassment and discrimination
- Coordinating awards and other activities to recognise Human Rights Week

## Concluding Observation 28 – Additional ratifications

284. Australia acceded to the Optional Protocol to the Convention on the Rights of Persons with Disabilities on 21 August 2009, which entered into force on 20 September 2009. Australia has received communications under the Optional Protocol and is responding to these in good faith.

285. The Australian Government is considering whether it will ratify the Optional Protocol to the Convention against Torture and therefore bring it into force in Australia. Places of detention under the Australian Government's control are currently under independent scrutiny by a range of bodies at the federal and state and territory levels, including the Commonwealth Ombudsman, state and territory ombudsmen and the AHRC.

286. Australia regards the combination of its strong domestic and international protections already in place to be sufficient and does not intend to sign, accede or become party to the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

287. Australia protects the human rights of migrants and temporary entrants under existing domestic and international law, including consistently with the human rights conventions to which Australia is a party. Australia also recognises the importance of providing legal protections to migrant workers and has recently passed domestic laws to ensure better protection of temporary overseas workers.

288. Australia is concerned about the incompatibility of the Migrant Worker's Convention with domestic migration policies. For example, becoming party to this Convention would require Australia to treat migrant workers and their family members more favourably than other migrants in visa application processes. At times, this Convention does not distinguish between those who are working lawfully and those working unlawfully.

289. Ratification of International Labour Organization Convention 169 (Indigenous and Tribal Peoples Convention, 1989) is not a priority for the Australian Government at this time. The Australian Government has a clear reform agenda that focuses on delivering practical assistance to Australia's Indigenous people. The rights of Indigenous Australians are protected under the Racial Discrimination Act 1975 (Cth) and the International Convention on the Elimination of All Forms of Racial Discrimination. Australia also supports the UN Declaration on the Rights of Indigenous Peoples. The Australian Government consults Indigenous people in a variety of ways, and will continue consulting with state and territory governments, Indigenous leaders and communities while continuing to improve outcomes for Indigenous Australians.